IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1707 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 1 - Petitioner(s)

Versus

KANUBHAI MANGALBHAI PATEL - Respondent(s)

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Appearance :

MR KL PANDYA AGP for Petitioner No(s).: 1,2.

MR TRILOK J PATEL for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 25/07/2005

ORAL JUDGMENT

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1.0 The petitioners have challenged the award dated 24.07.1999 passed by the Labour Court, Nadiad in

Reference LCN No.57 of 1999, whereby the petitioner was directed to reinstate the respondent with continuity of service and full back wages.

2.0 The brief facts of the case are that the respondent herein was working as a Rojamdar with the petitioner State. On 20.08.1982 the services of the respondent were brought to an end. Against the said action, the respondent raised an industrial dispute by way of a reference. The Labour Court, by impugned award, allowed the said reference as aforesaid. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. The Labour Court has recorded a finding that the respondent had worked with the petitioner during the period from 21.10.1981 to 20.08.1982, thereby completing 255 days of service in the year. On the basis of the said finding, the Labour Court has awarded the respondent reinstatement with continuity of service. I am in complete agreement with the reasonings given by the Labour Court while granting reinstatement with continuity in service to the respondent.

3.1 However, so far as the question as regards grant of back wages is concerned, it is required to be noted that the Labour Court has not given any cogent reasons as to on what basis it has awarded back wages to the respondent. Moreover, in view of the principle laid down by the Apex Court in the case of General Manager, Haryana Roadways v. Rudhan Singh reported in J.T. 2005(6) S.C. pg.137, wherein it has been held that an order for payment of back wages should not be passed in a mechanical manner, but, a host of factors are to be taken into consideration before passing any such order, the order awarding back wages is required to be quashed and set aside.

4.0 In above view of the matter, this petition is partly allowed. The impugned award of the Labour Court is modified to the extent that the direction qua granting reinstatement with continuity in service is confirmed; and, the direction qua awarding back wages is quashed and set aside. It is clarified that the respondent shall be entitled for all benefits from the date of the publication of the award till he is reinstated in service. The aforesaid payment to be made within a period of three months from the receipt of writ of this order.

Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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